



Lamoine Board of Selectmen

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Minutes of January 8, 2009

Chairman Jo Cooper called the meeting to order at 7:02 PM

Present were: Selectmen Brett Jones, Kermit Theall, S. Josephine Cooper, Cynthia Donaldson, Richard Fennelly Jr. (arrived 7:43 pm); Administrative Assistant Stu Marckoon, Kathleen DeFusco, Code Enforcement Officer Dennis Ford, Deputy Code Enforcement Officer Michael Jordan.

The meeting was telecast and recorded by Lamoine Cable TV Channel 7.

Agenda Review – Jo said she'd like to wait for Richard's arrival to discuss the shellfishing issue and the plow contract.

Minutes of December 18, 2008 – Jo noted one minor spelling correction was needed. Kermit moved to approve with the correction. Brett said he thought the language in regard to the discussion of Home Occupation permit process by the Planning Board could have been worded that he was more than concerned. He did not offer any specific change. Jo 2nd. **Vote in favor was 4-0 (Fennelly absent).**

Expenditure Warrant 14 – There were no questions about the warrant that was signed the last week of December.

Expenditure Warrant 15 – Stu reported he moved \$160,000 from the investment management account in order to cover the checks. Selectmen signed the warrant for \$179,907.14. More than \$173,000 was for the school operations warrant.

Cash & Budget Reports – There were no questions.

Checking Account Reconciliation – Selectmen signed the statement expressing satisfaction with the checking account reconciliation review.

Code Enforcement – Notice of Violation Update – Code Enforcement Officer Dennis Ford said the Selectmen should have a timeline of what's taken place thus far. Stu said he put it in with the material handed out this evening. Mr. Ford said the Selectmen should also have a copy of the amended notice of violation. Stu said he'd placed that in the packet handed out last week. Deputy CEO Michael Jordan said there was some question about a letter from Mr. Simons' lawyer. Jo said it looks like the letter was addressed to Mr. Jordan and came to the town hall in December, but was not opened until this week. Stu said the

letter probably should have been addressed to the Board of Appeals. He said it looks like the Appeals Board will meet in regard to the letter on January 19th.

Cynthia said she had a concern about how the letter was processed. Stu said he'd placed it on the CEO's desk when it came in, and there it sat. Cynthia said there could be serious implications if a 35-day time period had expired. A discussion followed on what might be a more effective way to notify town personnel about received mail. Mr. Ford said this appeared to slip through the cracks. Mr. Jordan said in the future to just call him and let him know.

Brett said it appears the alleged violator has hired Steve Salsbury to delineate the area with another person. He asked if they've gotten to the point of saying what has to be replanted. Mr. Ford said he's not received any paper work yet from Mr. Salsbury, but a forester should be doing up a plan and re-vegetation should be part of it. He said he presumes a lot of paperwork is involved, and it may be a long process.

Jo said she wondered what Mr. Simons' attorney is asking in the letter. Stu said if he had to guess it's an extension of time to comply with the notice of violation. Mr. Ford asked for permission to send information to the town attorney to keep him abreast of the situation. Stu said the attorney will ask whom he's representing and suggested it should be the Code Enforcement Officer as opposed to the Board of Appeals.

Cynthia asked how the process worked. She said Mr. Jordan came to the Selectmen and told them about the violation and the Board was advised not to discuss it very much because of the legal implications. She said she found out what the latest on the case was by reading it in the Lamoine Quarterly. She said the Selectmen seem to be out of the loop until they're told they need to be involved. She asked when the Selectmen would become involved. Mr. Ford said at the penalty phase, if there should be some sort of consent agreement. He said he'd like to supply Town Attorney Tony Beardsley with the information but there is nothing to act on yet.

Brett said he didn't like being in the dark about things before being asked to pass judgment. Kermit said he concurred. Jo moved to authorize the Code Enforcement Officer to utilize the town attorney. Brett 2nd. **Vote in favor was 4-0.**

Road Maintenance Needs – Stu said Shore Road needs the trees trimmed. He read a list of needs as follows:

- Fill pot hole at intersection of Shore Road / Lamoine Beach Road (western end)
- Shape entrance at A. Meyer driveway on Shore Road so water does not run into Shore Road and create an ice slick
- Same as above except at the M. Arsenault residence on Buttermilk Road
- Trees on Shore Road need to be trimmed back, especially between Deer Run and Fox Run
- Shoulders on Buttermilk Road need to be filled/shaped
- Birchlawn Drive shoulders still need to be filled/shaped

Brett said there was a dead tree that fell on Seal Point Road that needed to be removed. Mr. Ford said he cut it on Tuesday afternoon. Jo said the list should be given to the Road Commissioner to accomplish the projects.

Road Names – Jo moved to approve the following road names:

- Saffell Drive
- Chickadee Lane

Cynthia 2nd. **Vote in favor was 4-0**

Town Meetings – Jo reported there are no candidates on the ballot for the February 12, 2009 special election for the RSU Board. She said Jon Morren has offered to be a write in candidate. Brett asked if he got the full run down of what the RSU Board will be doing. Jo said Mr. Morren realizes it's a very big job, and there may be a high level of burnout. She said he would be a good candidate.

April 2009 Warrant Draft – Stu said he put a new draft of the warrant with tonight's material. He said that included the pre-open meeting items, and a separate article for the hospital's capital campaign request. There was a brief discussion about the lack of a school budget.

Proposed Ordinance Changes – Stu reported that he did not have the final versions of the proposed ordinance changes, but was expecting them tomorrow. Mr. Jordan said there were very minor changes from the previous draft. Stu said the Planning Board plans an informational session on February 3, 2009 at 6:30 PM prior to their regular meeting.

Brett asked if the final language would be laid out for the next meeting so the new language can be contrasted to the old. Stu said he would do that.

Budget – Kermit said he was able to view the budget committee meeting on TV Monday night. He said there was a discussion about employee raises. Brett said what the Selectmen can recommend for the warrant can be different from

the Budget Committee's recommendation. Jo asked if the raise discussion was philosophical or bottom line related. Cynthia said it was philosophical – concern the proposed raise for one employee was too big all at once. Kermit said there was discussion about how the Selectmen could change the administration budget. A short discussion followed.

Brett said there was a general consensus to finance the purchase of a new brush truck for the fire department. He said the payback on that would be about \$15,000/year, and that would reduce the cost by \$10,000. Stu said the Budget Committee recommended lower amounts for the library, the plowing contract, and the request from Maine Coast Memorial Hospital's capital campaign. He said the bottom line for expenditures is less than the current year, but revenues are projected to be significantly lower.

Brett asked what kind of increase we're looking at on the mill rate. He asked if budgets could be changed, and suggested a delay in paving Buttermilk Road. Jo said she wondered about that as well. Brett said the Budget Committee shaved small amounts, but the town might have to hit something really hard.

Richard arrived at the meeting at 7:43 PM.

Mr. Ford said he would have to look at the situation and see if another local road might be more appropriate to pave. Cynthia said she wants to make sure that doesn't put the town behind the 8-ball further down the line where two roads have to be paved in a year. Richard said he drives on Buttermilk Road every day and agrees that it needs work but could probably wait a year. Jo said shoulder and ditching could be done.

Richard asked if purchase of a brush truck could wait another year. Brett said the previous year's debt service payment was around \$25,000. He said the Budget Committee preferred to finance the truck over a 5-year period with a \$15,000 a year payback. Brett recapped the reductions the Budget Committee had made to the budget. There was a discussion about the property tax needs, and about which roads might be substituted for Buttermilk Road.

Brett said he would kick himself if there were some sort of inflationary backlash by delaying the Buttermilk Road paving. A short discussion followed.

Jo asked Kathleen DeFusco if the summarization of the budget committee discussion was fair. Mrs. DeFusco indicated it was. Jo asked about the fire truck purchase. Brett said a new truck would replace two old trucks, and it would be more reliable and there would likely be cost increases on new trucks. A lengthy discussion followed.

Richard said a hard look is needed at replacing a fire truck this year. He said these are hard times. A discussion followed about financing a truck vs. putting money into a truck reserve. Jo said she would like to talk with the fire chief. Further discussion followed about purchase vs. reserve. It was agreed to invite the fire chief to the next meeting.

Flag – Pole Permits – Stu said he had nothing new on the situation. Brett called the insurance demand from Bangor Hydro unfortunate. Richard said it's a lot of money for insurance. Brett asked what the intentions are for next summer. Mrs. DeFusco asked if there was a problem. Jo said Bangor Hydro was demanding that towns get permits to hang flags, and it's a high insurance cost. Richard asked if there had been any discussion with other towns that display flags. Stu said he had not talked with any, but he could.

School Lot Delineation – Stu said he put an estimate from Steve Salsbury in the packet of information this evening. Brett said a couple of corners would be tough to pin. Stu said if one has a description and a plan, the pins could be set in the future. Richard moved to authorize spending \$475 for the project. Jo 2nd. **Vote in favor was 5-0.**

Emergency Operations Plan – Stu said most of the changes suggested by the Hancock County EMA office were updated phone numbers. Jo moved to approve the changes to the plan. Kermit 2nd. **Vote in favor was 5-0.**

Election Ordinance – Stu said he had drafted up changes to the Elected Officials and assumption of office ordinance to extend the current school board terms to the end of June, whereupon the school committee is dissolved. He said he added language to have the term of the RSU member run from July to June for however long the term is.

Plow Contract – Kermit asked if the proposal was a new one. Stu said it's the same as what was tabled last meeting. Jo said she thought it was fine. She said in the event of an inflationary issue, both sides would know what to expect, and the town would not have a contractor demanding some unknown amount of money. Richard said he liked the idea of a 5-percent cap. He said if there is a reasonable need, there is a limit to the town's exposure.

Stu said he was kind of flying by the seat of his pants in drafting the escalator language. Brett said he has a philosophical problem. He said during mild winters, the town doesn't get a break. He said he realized the rise in fuel cost was steep. He said the plow contractor seems to be fiscally stable. He said he doesn't like the idea of renegotiating a contract when things become difficult for

the contractor. He said he's not opposed to the idea in general. There was a discussion of whether this really was a renegotiation, variable costs faced by the contractor, and what constitutes an event.

Brett said he is not opposed to including the language in a future contract. Jo asked if the present contractor is waiting for something. There was a discussion about offering an extension of the contract. Jo said she was not opposed to presenting the proposed language and asking for an extension. There was a discussion about the basis for the escalator, fuel costs, and the number of events.

The Board had no objection to showing the proposed escalator language to Nankervis trucking and asking to discuss an extension. Cynthia said she was curious how an event is defined.

Closed Shellfishing Areas – Richard said he talked a few meetings ago about the closure in the Skillings River and promised to get more information. He said he finally found out that the lower Skillings River closure was lifted in April. He said that leaves two areas closed in Lamoine – part of Mud Creek, which is a small area but productive flats - and a mile long section from Partridge Point to Eagle Point. He said the Department of Marine Resources felt the pollution might be transported by the stream running into Martin's Cove. He said there is a farm in the area, but they're not sure if that's the problem.

Richard said if the town doesn't actively work to address closures, then there will not be many flats left to use. He said Mud Creek has been a challenge. He said the closure has been there for many years; it was opened up, and then closed again. He said it ought to be easy to identify the point source.

Jo asked what the steps are for correction. Richard said he wondered if cattle are the source and asked if there were any ordinances that addressed that. He said Stu sent him a portion of the Shoreland Zoning Ordinance that deals with manure piles. He said maybe the Planning Board could look at some ordinance language. Brett said existing conditions are grandfathered in.

Kermit asked who monitors the situation. Richard explained the Department of Marine Resources (DMR). He said he would hate to see an onerous burden put on anyone, but at the same time, if it's one point source that is discharging, that's unfair to clam diggers.

Jo said she didn't know if there is any action for the Board to take. Richard said it could be a bad septic system. He said the town should take a good look at the systems on the shore. He said DMR could have the Department of

Environmental Protection find the problem, but they would not be as accommodating as the town might be.

Brett asked how long the Eagle Point area had been closed. Richard said about a year and a half. There was a brief discussion about having the Plumbing Inspector check septic systems in the area.

Richard said the DMR lab has limited resources, and their means to get results is the DEP. There was a further discussion about having the Plumbing Inspector look at septic systems. Jo asked Richard if he was asking Mr. Ford to investigate. Richard said it would be a shame to ignore the problem. He said the public can't enjoy the use of the flats when they're closed. Jo said she would like Mr. Ford's input on the matter. Richard said he was interested to hear how the rest of the board feels. Brett said having Mr. Ford inspect the areas seems like a reasonable request, and better than involving the DEP right off.

Richard said he thought he saw something in the newsletter from the Hancock County Planning Commission about septic systems. Stu said it's the small community grant program which the town has utilized in the past.

Cynthia asked about the distinction between prohibited and restricted flats. Richard explained restricted requires a permit, and there are specific requirements such as flushing the clams to get that permit. Jo said she would like to get input from Mr. Ford to see if a septic inspection is doable. Mr. Jordan said he would start at the farm. He said he has no doubt that runoff from the pasture gets into the stream. He said it would be best to eliminate the most likely source first. Brett said if there is a damaged septic system, that could be fixed. There was a brief discussion on the likely point sources areas.

Other – Posting Draft Minutes – Brett said he'd had a person ask him about posting draft meeting minutes in advance of the next meeting. He said there is at least a two week delay in posting which has been waiting for final approval before posting the minutes on the website. Richard said he too had been asked to have the draft minutes posted.

Cynthia said that's a way misinformation can be spread. Richard said the response to that is that the draft minutes have not been approved. Jo said she was OK with that as long as the minutes are identified as draft minutes. Cynthia said she objected to it. She said folks are welcome to get a recording of the meeting.

Jo said she didn't think it was that big of an issue. She asked if people are being deprived of that big of a matter. A discussion followed. Stu noted that the draft

minutes are still considered a public document. Brett said the question is whether the town posts the draft on line. There was a discussion about how corrections are tracked. Jo said that given the fact a draft is a public document, she doesn't mind.

Brett moved to post draft minutes on the town's website. Cynthia 2nd. **Vote in favor was 3-2 (Theall, Donaldson opposed).**

Power outlets at Salt/Sand Shed – Stu reported Nankervis Trucking had approached him about putting in plugs at the shed to keep their engine blocks warm for assurance the trucks will start when needed. Brett said Nankervis should pay for any electricity use. Stu said they've offered to do that. There was a brief discussion about the problem and Selectmen authorized Stu to ask Arthur Ashmore about doing the job.

Town Report – Stu said the draft of the first part of the town report was in the materials for this evening.

MDOT 6-year Plan – Stu noted that Route 184 made the plan, but he's not sure what work is being proposed other than "improvements".

Governor's Volunteer Program – Stu said if the Selectmen had any nominees in mind to let him know and maybe someone from Lamoine could be nominated.

Excise Tax Report – Stu noted the quarterly report showed the amount of excise collected during 2008 was down a bit compared to 2007.

Other – There was a brief discussion about the delineation article language, and whether the plan creates a non-conforming lot. The Board suggested that the Planning Board review the plan.

Insurance Inspection – Stu reported the only deficiency found was that the fire extinguisher at the transfer station was not inspected monthly. He said he wrote a memo to Bill Fennelly to make sure that is done.

There being no further business, the meeting adjourned at 9:20 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst.

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